

Trianovich, Amanda

Subject: FW: re 233 Hillspoint Road
Attachments: 233_recent_zoning_history_04202020.pdf; 233_Hillspoint_affidavit_nov_2016.pdf

RECEIVED

JUL 13 2020

From: E. van Dorsten <evandors@optonline.net>

Sent: Friday, July 10, 2020 5:20 PM

WESTPORT Z.B.A.

To: Young, Mary <maryyoung@westportct.gov>; Tyminski, Cindy <ctyminski@westportct.gov>

Subject: re 233 Hillspoint Road

CAUTION: This email originated from outside of the Town of Westport's email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Mary and Cindy

There seems to be an omission on your document referencing recent zoning history of 233 (first attachment). Since you are submitting the zoning history at the variance hearing this upcoming Tuesday July 14th I wanted to bring this to your attention.

Please note the affidavit (second attachment) which was signed and recorded in the Westport, CT. town land records. In sections #5 and #6 it states the property is in a residential zone and has discontinued and abandoned all commercial use.

Thank you for your attention to this matter.

Regards,

Ellen van Dorsten

203 221 7131 h

914 441 8390 c

Memorandum

To: File, 233 Hillspoint Road
From: L.Montagna, Zoning Official (updated)
C. Tyminski, Planner (updated)
Michelle Perillie, Planner
Date: April 17, 2012 Revised: 7/17/2018 Revised 4/20/20
Re: 233 Hillspoint Road, Recent Zoning History

12/23/19	Stop Work Order issued by the Building Department
12/20/19	Cease and Desist issued for construction of new single family residence not in compliance with plan approved in ZBA application #7629.
12/20/19	Zoning Permit #42345 revoked for construction not in compliance with approved plans
12/19/19	Complaint received regarding construction not in compliance with approved plans.
11/26/18	Zoning Permit #42345 issued for construction of new single family residence per ZBA approval #7629 and CAM approval #18-035
7/26/18	Coastal Site Plan Application #18-035 approved for construction of new single family residence
5/08/18	<u>Zoning Board of Appeals</u> (#7629) application for relief from coverage and setback variances for a modified proposal from 2017 which included a house which was reduced in size and the removal of the pool from the proposal, was approved.
12/5/17	<u>Zoning Board of Appeals</u> application (#7592) for lot coverage and setback for the construction of a new single-family residence on this property. This proposal included a new pool and a larger house and the Board stated that the applicant failed to establish a hardship; application Denied.
10/3/14	Removal of Cease and Desist issued 10/3/00.
10/3/12	Request for continued compliance for removal of unscreened dumpsters.
9/20/12	Notice of Violation issued for unscreened dumpsters
8/30/12	Inspection confirmed door removed, violation corrected
7/27/12	Complaint submitted regarding unscreened dumpsters.
7/27/12	Inspection confirmed removal of patio
7/24/12	Abeyance issued for patio and door for 30 days

7/10/12 **Abeyance issued** for patio and door for 30 days

7/3/12 **Notice of Violation** issued for exterior changes without approvals (installation of door on south elevation).

6/27/12 **Complaint** submitted regarding installation of door without approvals

6/7/12 Negative **§8-24 Report** for lease of Town land for a one year period to prove an outdoor eating area and to provide two parking spaces for Positano's Restaurant.

5/30/12 **Complaint submitted** regarding dumpster not screened

5/30/12 **Complaint submitted** regarding illegal rear patio

2012 Companion application to the **Zoning Board of Appeals** (#7067) for a §8-24 to lease land from Town and requested relief by applying for 10 variances.

8/8/01 **Zoning Permit #31184 issued** for relocated mop sink for Positanos Restaurant.

3/15/01 **Site Plan** Application #01-002 approved for minor interior changes to Capri Restaurant to change it to Positano 2 Restaurant. Condition of approval #2 included the following:
"This is a pre-existing non-conforming use in a residential zone. The patron floor area cannot be expanded. The interior stairway is to be used only by restaurant employees and when the restaurant is open to be used by employees or service personnel for limited access only to the walk-in refrigerator. The gate at the bottom of the interior stairway to be kept secured. There is to be no patron access to the second floor."

10/3/00 **Cease and Desist Order** issued for patio constructed without permit on town property within the setbacks and over the allowable coverage.

9/21/00 Negative **§8-24 Report** regarding encroachment of a newly constructed patio area on Town-owned property. The resolution states, *"It is recommended that Town-owned property, especially near the water, should not be sold or leased. Town-owned property is for public use"*.

4/26/00 **Complaint submitted** regarding excessive lighting

12/3/99 **Complaint submitted** regarding patio being constructed without approvals

6/29/99 **Site Plan** Application #99-050 approved for a revision of façade that was approved as Resolution #99-010. (ARC).

3/11/99 **Zoning Permit #28855 issued** for work approved in Site Plan Application #99-010 and wall sign for Capri Restaurant. ZCC issued 3/24/00.

3/2/99 **Site Plan** Application #99-010 approved to renovate interior space for a pre-existing non-conforming restaurant (Capri Restaurant) including replacement of roofing and windows and new exterior surface. Some of the conditions of approval included the following:

- No apartment is allowed on the lot;
- That the exterior doors shown on the east elevation are to be changed to windows;

- *That the dumpster will be relocated to the south east corner of the building where the site plan shows parking space #8 and parking space #8 is to be relocated north of parking space #1 shown on the above referenced plans;*
- *The rooftop mechanical units must be screened as required by variance #4918 and Zoning Permit #26152;*
- *The restaurant approval is for on-site dining and it cannot serve take-out orders nor offer delivery of food to the customers' homes;*
- *There can be no outdoor dining/patio;*
- *The first floor cannot be lowered.*

12/3/98 Positive **§8-24 Report** regarding the sale of 6.69 square feet of Town-owned land.

4/27/98 **Sign Violation** letter issued

10/16/97 **Complaint** received regarding signage

4/18/95 **Zoning Permit #26152** issued for repair existing awning. ZCC not issued.

5/24/94 **Zoning Board of Appeals** application (#4918) granted variance to allow for change of pre-existing non-conforming double faced sign in the same location and mechanical screening.

2/22/94 **Zoning Permit #25314** issued for interior renovations to bring bathrooms up to building/handicap code to the Beach House Restaurant. ZCC issued 5/25/94.

AFFIDAVIT

STATE OF CONNECTICUT:

COUNTY OF FAIRFIELD : ss. Stamford
:

November ____, 2016

The undersigned, being duly sworn, does depose and say:

1. I am over the age of eighteen years and believe in the obligation of an oath.

2. I am the Manager of 233 LLC, a Connecticut limited liability company with an office and principal place of business c/o Brenda Resha, 1019 Downey Drive, Nashville, Tennessee and am authorized to make this affidavit and attest that the following representations are true and correct.

3. 233 LLC is the owner of the premises located at 233 Hillspoint Road, Westport, Connecticut ("233 Hillspoint Road") which premises are more particularly described as follows:

The real property located in Westport, Connecticut known as 233 Hillspoint Road, also described as the property conveyed by The Beach House LLC to 233 LLC by warranty deed dated September 23, 2015 and recorded in volume 3555, page 321 of the Westport Land Records and by quit claim deed dated September 23, 2014 and recorded in volume 3565, page 2350 of the Westport Land Records, said property also being the parcel shown on a map entitled "Existing Building Location Survey, 233 Hillspoint Road, Westport, CT," dated September 17, 2014 and on file in the Westport Town Clerk's office as map no. 10178.

4. 233 LLC acquired all right, title and interest to 233 Hillspoint Road by virtue of a statutory warranty deed executed by The Beach House LLC, a/k/a The Beachhouse LLC, as grantor, in favor of 233 LLC, as grantee, dated September 23, 2014 and recorded on September 25, 2014 in Book 3555 at Page 321 of the Westport Land Records and by virtue of a statutory quit claim deed executed by The Beach House LLC, a/k/a The Beachhouse LLC, as grantor, in

favor of 233 LLC, as grantee, dated September 23, 2014 and recorded on November 4, 2014 in Book 3565 at Page 116 of the Westport Land Records.

5. The use of 233 Hillspoint Road for any commercial purpose or enterprise including, but not limited to, the operation of a restaurant ceased and was discontinued and abandoned commencing on January 1, 2015.

6. 233 LLC does hereby confirm its intent to irrevocably abandon and discontinue any and all commercial uses of the premises at 233 Hillspoint Road, Westport, Connecticut.

Gilbert Cohen

Subscribed and sworn to, before me, this _____ day of November, 2016.

Stephen J. Curley
Commissioner of the Superior Court